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March 7, 2017

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Via ECF and Regular Mail

Arlene R. Lindsay, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Jackson v. Lowe's Companies, Inc. and Dennis Shanley
Docket No.: 2:15-cv-4167 (ADS)(ARL)

Honorable Madam:

Kindly be advised that the office of the undersigned is defending Lowe's Co. Inc. and Dennis Shanley in the above-referenced matter. This correspondence is submitted in reply to the letter of Amanda M. Prentice dated March 6, 2017. I would like to take this opportunity to address each of the issues raised in counsel's correspondence.

First, following my recent telephone conversation with counsel, I subsequently left her a voicemail. In that voicemail I advised her that we would, in fact, produce all records regarding purchases made at Cash Register No. 2 between 7:53 a.m. (when the video shows Mr. Jackson first reentering the store after his initial purchase) and 8:04 a.m. (when he is seen leaving with the stolen merchandise). At this point, I am waiting for my client to provide it. Of course, I will immediately provide it to Ms. Prentice.

However I also note that counsel also requests that the timeframe for such production be expanded to 7:44 a.m. through 7:50 a.m., that is the time Mr. Jackson made his purchases and subsequently exited the store. Defendants concede that Mr. Jackson did, in fact, purchase the first batch of merchandise. Therefore this demand is irrelevant and will not lead to the discovery of relevant information.

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With regard to counsel's second request, it is our position that the time within which to complete pretrial discovery is long over. Certainly, Mr. Jackson's original counsel had more than sufficient time to demand any additional documentation they felt relevant as a result of deposing three store employees. In any event, all video depicting the plaintiff has already been produced.

With regard to counsel's third request, we object on the grounds of both relevancy and timelessness. Moreover, the production of such documents will not lead to the discovery of relevant information. In short, this is little more than a last minute fishing expedition.

As to the counsel's fourth request, this office takes no position regarding it, beyond again stressing the fact that the time within which to conduct pretrial discovery has long passed. The same is true of counsel's fifth request.

It is respectfully submitted that granting counsel this additional discovery will undoubtedly lead to a slew of yet additional, follow-up discovery requests. As such, beyond complying with the first request set forth in counsel's letter, it is respectfully submitted that all of the requests should be denied and that counsel be directed to submit plaintiff's additions to the Joint Pretrial Order.

Respectfully submitted,

PERRY, VAN ETTEN,
ROZANSKI & PRIMAVERA, LLP

By: _____


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HMP/lg

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